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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/705,437

11/10/2003

Ken'Ichi Imamatsu

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EXAMINER

WOOD, WILLIAM H

ART UNIT

PAPER NUMBER

2193

MAIL DATE

DELIVERY MODE

04/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/705,437	Applicant(s) IMAMATSU, KEN'ICHI	
	Examiner William H. Wood	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 17-19 and 22-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 32 is/are allowed.
- 6) ☒ Claim(s) 13, 17-18, 22-31 and 33-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/29/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 13, 17-19 and 22-45 are pending and have been examined.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 29 January 2008 has been considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13, 17-18, 22-26, 28-31, 33-45 are rejected under 35 U.S.C. 102(a, b) as being anticipated by **Cowan** (USPN 5,848,064).

Claim 13

Cowan discloses a software supplying device comprising:

a memory storing software being downloaded by a radio terminal device
(figures 1 and 2; column 2, lines 35-40); and

a communication unit that is adapted to notify said radio terminal device of a number of divided blocks for transmitting of said stored software (*column 8, lines 57-59; column 11, lines 24-35; indicating a total number of files through the list*), to receive from the radio terminal device a request corresponding to each divided block to transmit the respective divided block, and to transmit in response to said respective requests transmits said respective divided blocks to the radio terminal device on a block-by-block basis (*column 11, line 36 to column 12, line 34, specifically column 12, lines 7-11; column 13, lines 47-67; requesting each file of the list*).

Claim 17

Cowan discloses a radio terminal comprising: a radio communication unit communicating with a software supplying device; a memory storing software presently involved in operations (*figures 1 and 2; column 2, lines 35-40*); and a controller stopping a download of software from said software supplying device when the controller detects an operation for responding to an incoming call (*column 14, lines 1-9, terminates if hung up*). Claims 39-41 correspond to claim 17 and are disclosed in a corresponding manner.

Claims 18, 22-24, 26, 28-30, 33-38 and 42-45

The limitations of claims 18, 22-24, 26, 28-30, 33-38 and 42-45 correspond to the limitations of claim 13 and as such are disclosed in a corresponding manner.

Claims 25, 31

Cowan discloses the radio terminal of claim 24, wherein the radio terminal starts to communicate with the software supplying device when a certain time elapses after a predetermined operation to the radio terminal (*column 14, lines 1-9*). Claim 31 corresponds to claim 25 and is disclosed in a corresponding manner.

Allowable Subject Matter

Claims 19 and 32 are allowed.

Response to Arguments

Applicant's arguments filed 07 January 2008 have been fully considered but they are not persuasive. Applicant argues **Cowan** fails to disclose blocks. It is clear from the above passages that the reference demonstrates files. Files are blocks of information. **Cowan** clearly indicates a number of files/blocks through a transmitted list. Further, each file/block is requested for download. Thus the software is updated according to the several files/blocks provided.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Tuesday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis A. Bullock Jr. can be reached on (571)-272-3759. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

/William H. Wood/

William H. Wood

Primary Examiner, Art Unit 2193

April 4, 2008